

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV336621614US, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: January 3, 2005

Signature:

*Georgina Matos*  
(Georgina Matos)

Docket No.: 220002057125  
(PATENT)  
Client Ref. No.: 94-161-9

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

H. Kirk HAMMOND et al.

Application No.: 09/847,936

Confirmation No.: 6165

Filed: May 3, 2001

Art Unit: 1632

For: TECHNIQUES AND COMPOSITIONS FOR  
TREATING CARDIOVASCULAR DISEASE  
BY IN VIVO GENE DELIVERY

Examiner: A. Wehbe

### RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Restriction Requirement set forth in the Office Action mailed July 1, 2004, for which a response was due on August 1, 2004. Filed herewith is a Petition and fee for a five-month extension of time, thereby extending the deadline for response to January 1, 2005. Since the deadline falls on Saturday, January 1, 2005, we are filing on the next succeeding business day which is Monday, January 3, 2005. Accordingly, this response is timely filed.

The Examiner has required restriction between:

- I. Claims 1-36, 40-45, 52-54, 55-100, 104-109 and 116-120, drawn to methods comprising administering a transgene encoding an angiogenic protein or proteins, classified in class 514, subclass 44;
- II. Claims 1, 37-39, 57 and 101-103, drawn to methods comprising administering a transgene encoding an angiogenic protein and a transgene encoding a cardiac enhancing protein or peptide, classified in class 514, subclass 44;
- III. Claims 1, 46-51, 57 and 110-115, drawn to methods comprising administering a transgene encoding an angiogenic protein and infusing an artery with a vasoactive agent, classified in class 514, subclasses 2 and 44;
- IV. Claims 121-148 and 151-152, drawn to a vector compositions containing a transgene encoding an angiogenic protein or proteins and a kit comprising the composition, classified in class 435, subclass 320.1;
- V. Claims 121 and 149-150, drawn to a vector compositions containing a transgene encoding an angiogenic protein and a transgene encoding a cardiac enhancing protein or peptide, classified in class 435, subclass 320.1;
- VI. Claims 152-154, drawn to kits comprising a vector comprising a transgene encoding an angiogenic protein and a device for introducing the composition to a blood vessel, classified in class 435 and 604, subclass 320.1 and 508 respectively; and
- VII. Claims 152 and 155-156, drawn to kits comprising a vector comprising a transgene encoding an angiogenic protein and a vasoactive agent, classified in classes 435 and 530, subclasses 320.1 and 350 respectively.

Applicants hereby provisionally elect claims 1-36, 40-45, 52-54, 55-100, 104-109 and 116-120 for continued examination. This election is made with traverse. Applicant respectfully submits that it would not be unduly burdensome to search the claims of Groups I-VII together. Accordingly, Applicant respectfully requests withdrawal of the Restriction Requirement.

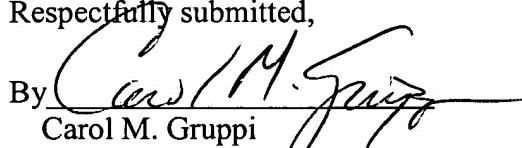
Applicant expressly reserves the right under 35 U.S.C. §121 to file a divisional application directed on the non-elected subject matter during the pendency of this application, or an application claiming priority from this application.

In the unlikely event that the transmittal form is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing 220002057125. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: January 3, 2005

Respectfully submitted,

By

  
Carol M. Gruppi  
Registration No.: 37,341

MORRISON & FOERSTER LLP  
755 Page Mill Road  
Palo Alto, California 94304  
(650) 813-5777